



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/909,823	07/23/2001	Carsten Burmeister	2001_0944A	3053
513 7590 03/03/2006 WENDEROTH, LIND & PONACK, L.L.P. 2033 K STREET N. W. SUITE 800 WASHINGTON, DC 20006-1021			EXAMINER FOX, JAMAL A	
			ART UNIT 2664	PAPER NUMBER

DATE MAILED: 03/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

3

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/909,823	Applicant(s) BURMEISTER ET AL.	
	Examiner Jamal A. Fox	Art Unit 2664	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 February 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: _____.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attachment.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

Response to Arguments

1. Applicant's arguments filed 2/15/2006 have been fully considered but they are not persuasive. Claims 1, 2, 5, 6, 9, 11, 12, 15, 16 and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Chuah (U.S. Patent No. 6,839,339). Claims 4 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chuah in view of Le et al. (U.S. Patent No. 6,782,047).

Applicant argued that Chuah relating to RTP header compression or GTP header compression, do not provide a reasonable basis to conclude that the inventions of claims 1 and 11 are anticipated by Chuah. However, one skilled in the art would recognize that the conclusions that claims 1 and 11 are anticipated by Chuah are because Chuah discloses all of the limitations of claims 1 and 11 as well as relates to a method and apparatus for transmitting data packets in a packet stream wherein the data packets have compressed headers.

2. Applicant argued that full patentable weight must be given to the transmission of both an extended update packet and an extended non-update packet according to the inventions defined in claims 1 and 11. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., both an extended update packet and an extended non-update packet) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant argued that Chuah does not teach, disclose or suggest the presence of an extended non-update packet containing information about the irregular change which is not used to update the receiver-side context, as required by the method of claim 1 and the apparatus of claim 11. However, one skilled in the art would recognize that Chuah does not need to disclose the extended non-update packet because the claim has an **or** limitation.

3. Applicant argued that Chuah cannot reasonably be interpreted as disclosing or suggesting that a peer of the end-to-end connection between the MS 205 or the IP-end host 240 is capable of deciding which of two extended packet, i.e., an extended update packet or an extended non-update packet, is to be sent in response to a determined packet stream parameter, as recited in claims 1 and 11. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a peer of the end-to-end connection between the MS 205 or the IP-end host 240 is capable of deciding which of two extended packet) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

4. Applicant argued that Le et al. fails to disclose or suggest transmitting an extended non-update packet containing information about an irregular change, where the extended non-update packet is not used to update the context, as recited in claims 1 and 11. Applicant also argued that Le et al. cannot cure the deficiencies of Chuah for failing to disclose or suggest each and every limitation of claims 1 and 11. Applicant,

Art Unit: 2664

argued further that regardless of whether the clear deficiencies of Chuah or Le et al. are discussed individually or in combination, no obvious combination of Chuah and Le et al. would result in the inventions of claims 1 and 11, since Chuah and Le et al., either individually or in combination, fail to disclose or suggest transmitting the extended non-update packet defined in claims 1 and 11. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Claims 4 and 14 were rejected as being unpatentable over Chuah in view of Le et al., not claims 1 and 11 as mentioned in the applicants arguments.

Conclusion

5. Any response to this advisory action should be mailed to:

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

or faxed to:

(571) 273-8300, (for formal communications intended for entry)

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamal A. Fox whose telephone number is (571) 272-3143. The examiner can normally be reached on Monday-Friday 8:30 AM - 7:00 PM.

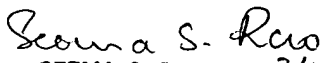
Art Unit: 2664

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on (571) 272-3174. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to 2600 Customer Service whose telephone number is (571) 272-2600.



Jamal A. Fox



SEEMA S. RAO 3/2/06
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600